

## DECLARATION FOR PATENT APPLICATION AND POWER OF ATTORNEY

Atty. Docket No: VEN003-00-01 CIP

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name; I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled "METHODS FOR IDENTIFYING, CHARACTERIZING, AND EVOLVING CELL-TYPE SPECIFIC CIS REGULATORY ELEMENTS", the specification of which (check one): ☒ is attached hereto; ☐ was filed on \_\_\_\_\_ as Application Serial No. \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable); ☐ was filed as PCT International Application No. \_\_\_\_\_ on \_\_\_\_\_ and was amended under Article 19 on \_\_\_\_\_ (if applicable). I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment(s) referred to above. I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56.

I hereby claim foreign priority benefits under 35 U.S.C. §19 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

			Priority Claimed	
(Application Serial Number)	(Country)	(Day/Month/Year Filed)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No
_____	_____	_____	<input type="checkbox"/> Yes	<input type="checkbox"/> No

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

(Application Serial Number)	(Day/Month/Year Filed)
_____	_____
(Application Serial Number)	(Day/Month/Year Filed)
_____	_____

I hereby claim the benefit under 35 U.S.C. §120 of any United States application(s) or PCT international application(s) designating the United States of America listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior application(s) in the manner provided by the first paragraph of 35 U.S.C. §112, I acknowledge the duty to disclose to the Office all information known to me to be material to patentability as defined in 37 C.F.R. §1.56 which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application:

08/800,664	02/14/97	Pending
(Application Serial Number)	(Day/Month/Year Filed)	(Status-Patented, Pending or Abandoned)
_____	_____	_____
(Application Serial Number)	(Day/Month/Year Filed)	(Status-Patented, Pending or Abandoned)
_____	_____	_____

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

POWER OF ATTORNEY: I hereby appoint as my attorneys, with full power of substitution and revocation, to prosecute this application and transact all business before the Patent and Trademark Office connected with:

Ronald S. Laurie (25,431)  
William W. Chuang (39,635)  
Michael J. Shuster (41,310)

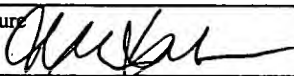
Joseph K. Siino (37,533)  
Nina K. Srejovic (40,342)  
J. David Hadden (40,629)

Michael D. Hartogs (36,547)  
Andrew Kumamoto (40,690)  
Laura A. Handley (39,704)

Peter P. Tong (35,757)  
Joseph Yang (41,387)

Send correspondence to: Michael J. Shuster

FIRM NAME	PHONE NO.	STREET	CITY & STATE	ZIP CODE
McCutchen, Doyle, Brown & Enersen, LLP	415-393-2000	Three Embarcadero Center	San Francisco, CA	94111-4067

Full Name of First or Sole Inventor Carl Alexander Kamb	Citizenship United States of America
Residence Address - Street 696 Donner Hill Circle	Post Office Address - Street
City (Zip) Salt Lake City 84108	City (Zip)
State or Country Utah	State or Country
Date <input checked="" type="checkbox"/> August 20, 1999	Signature <input checked="" type="checkbox"/> 

Second Joint Inventor, if any	Citizenship
Residence Address - Street	Post Office Address - Street
City (Zip)	City (Zip)
State or Country	State or Country
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

Third Joint Inventor, if any	Citizenship
Residence Address - Street	Post Office Address - Street
City (Zip)	City (Zip)
State or Country	State or Country
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

Fourth Joint Inventor, if any	Citizenship
Residence Address - Street	Post Office Address - Street
City (Zip)	City (Zip)
State or Country	State or Country
Date <input checked="" type="checkbox"/>	Signature <input checked="" type="checkbox"/>

**37 CFR 1.56. DUTY OF DISCLOSURE - INFORMATION MATERIAL TO PATENTABILITY (Applicable Portion)**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentability defines, to make sure that any material information contained therein is disclosed to the Office.

Information relating to the following factual situations enumerated in 35 USC 102 and 103 may be considered material under 37 CFR 1.56(a).

**35 U.S.C. 102. CONDITIONS FOR PATENTABILITY: NOVELTY AND LOSS OF RIGHT TO PATENT**

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraph (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent, or
- (f) he did not himself invent the subject matter sought to be patented, or
- (g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

**35 U.S.C. 103. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER (Applicable Portion)**

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject-matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

**35 U.S.C. 112. SPECIFICATION (Applicable Portion)**

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Fifth Joint Inventor, if any	Citizenship
Residence Address - Street	Post Office Address - Street
City (Zip)	City (Zip)
State or Country	State or Country
Date <input type="checkbox"/>	Signature <input type="checkbox"/>

Sixth Joint Inventor, if any	Citizenship
Residence Address - Street	Post Office Address - Street
City (Zip)	City (Zip)
State or Country	State or Country
Date <input type="checkbox"/>	Signature <input type="checkbox"/>

Seventh Joint Inventor, if any	Citizenship
Residence Address - Street	Post Office Address - Street
City (Zip)	City (Zip)
State or Country	State or Country
Date <input type="checkbox"/>	Signature <input type="checkbox"/>

Eighth Joint Inventor, if any	Citizenship
Residence Address - Street	Post Office Address - Street
City (Zip)	City (Zip)
State or Country	State or Country
Date <input type="checkbox"/>	Signature <input type="checkbox"/>

# PATENT

Attorney's Docket No: VEN -001-00-01

Applicant or Patentee: Arcaris, Inc.

Serial or Patent No: 09/378,420

Filed or Issued: August 20, 1999

For: METHODS FOR IDENTIFYING, CHARACTERIZING, AND EVOLVING CELL-TYPE SPECIFIC CIS REGULATORY ELEMENTS

## VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS (37 CFR 1.9(f) and 1.27(c)) -- SMALL BUSINESS CONCERN

I hereby declare that I am

- ☐ The owner of the small business concern identified below:
- ☒ An official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN                      Arcaris, Inc.

ADDRESS OF BUSINESS                615 Arapeen Drive, Suite 300  
Salt Lake City, Utah 84108

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 CFR 121.12, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third-party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to, and remain with, the small business concern identified above with regard to the invention, entitled METHODS FOR IDENTIFYING, CHARACTERIZING, AND EVOLVING CELL-TYPE SPECIFIC CIS REGULATORY ELEMENTS, by inventor(s) Carl Alexander Kamb.

described in

- ☐ The specification filed herewith.
- ☒ Application Serial No. 09/378,420, filed August 20, 1999.
- ☐ Patent No. \_\_\_\_\_, issued \_\_\_\_\_.

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 CFR 1.9(c), if that person made the invention, or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

09/378,420

# SECRET

☐ INDIVIDUAL      ☒ SMALL BUSINESS CONCERN      ☐ NONPROFIT ORGANIZATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

TITLE OF PERSON OTHER THAN OWNER: Director of Intellectual Property

Date: August 23, 2001

**SIGNATURE:**

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